

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 142

Citations Affected: IC 27-7-5-2; IC 27-7-5-1.5.

Synopsis: Commercial vehicle policies. Repeals a provision exempting commercial vehicle policies from requirements for an insurer to make available uninsured and underinsured motorist coverage. Maintains the exemption for commercial umbrella and excess liability policies, including certain motor carriers' policies. Amends provisions concerning rejection of the coverage. **(This conference committee report: (1) maintains the exemption for a commercial umbrella or excess liability policy, including certain motor carriers' policies; (2) specifies that a rejection of the coverage by a named insured is a rejection on behalf of all other named insureds and all other persons entitled to coverage under the policy; (3) specifies that a rejection of the coverage in an underlying commercial policy is also a rejection of the coverage in a commercial umbrella or excess liability policy; and (4) delays the application of the amendments to January 1, 2010.)**

Effective: July 1, 2009; January 1, 2010.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 142 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 27-7-5-2 IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) **Except as provided in**
- 4 **subsection (d)**, the insurer shall make available, in each automobile
- 5 liability or motor vehicle liability policy of insurance which is
- 6 delivered or issued for delivery in this state with respect to any motor
- 7 vehicle registered or principally garaged in this state, insuring against
- 8 loss resulting from liability imposed by law for bodily injury or death
- 9 suffered by any person and for injury to or destruction of property to
- 10 others arising from the ownership, maintenance, or use of a motor
- 11 vehicle, or in a supplement to such a policy, the following types of
- 12 coverage:
- 13 (1) in limits for bodily injury or death and for injury to or
- 14 destruction of property not less than those set forth in IC 9-25-4-5
- 15 under policy provisions approved by the commissioner of
- 16 insurance, for the protection of persons insured under the policy
- 17 who are legally entitled to recover damages from owners or
- 18 operators of uninsured or underinsured motor vehicles because of
- 19 bodily injury, sickness or disease, including death, and for the
- 20 protection of persons insured under the policy who are legally
- 21 entitled to recover damages from owners or operators of
- 22 uninsured motor vehicles for injury to or destruction of property

1 resulting therefrom; or

2 (2) in limits for bodily injury or death not less than those set forth
3 in IC 9-25-4-5 under policy provisions approved by the
4 commissioner of insurance, for the protection of persons insured
5 under the policy provisions who are legally entitled to recover
6 damages from owners or operators of uninsured or underinsured
7 motor vehicles because of bodily injury, sickness or disease,
8 including death resulting therefrom.

9 The uninsured and underinsured motorist coverages must be provided
10 by insurers for either a single premium or for separate premiums, in
11 limits at least equal to the limits of liability specified in the bodily
12 injury liability provisions of an insured's policy, unless such coverages
13 have been rejected in writing by the insured. However, underinsured
14 motorist coverage must be made available in limits of not less than fifty
15 thousand dollars (\$50,000). At the insurer's option, the bodily injury
16 liability provisions of the insured's policy may be required to be equal
17 to the insured's underinsured motorist coverage. Insurers may not sell
18 or provide underinsured motorist coverage in an amount less than fifty
19 thousand dollars (\$50,000). Insurers must make underinsured motorist
20 coverage available to all existing policyholders on the date of the first
21 renewal of existing policies that occurs on or after January 1, 1995, and
22 on any policies newly issued or delivered on or after January 1, 1995.
23 Uninsured motorist coverage or underinsured motorist coverage may
24 be offered by an insurer in an amount exceeding the limits of liability
25 specified in the bodily injury and property damage liability provisions
26 of the insured's policy.

27 (b) ~~Any~~ A named insured of an automobile or motor vehicle liability
28 policy has the right, ~~on behalf of all other named insureds, and all other~~
29 ~~insureds~~, in writing, to:

- 30 (1) reject both the uninsured motorist coverage and the
31 underinsured motorist coverage provided for in this section; or
32 (2) reject either the uninsured motorist coverage alone or the
33 underinsured motorist coverage alone, if the insurer provides the
34 coverage not rejected separately from the coverage rejected.

35 **A rejection of coverage under this subsection by a named insured**
36 **is a rejection on behalf of all other named insureds, all other**
37 **insureds, and all other persons entitled to coverage under the**
38 **policy.** No insured may have uninsured motorist property damage
39 liability insurance coverage under this section unless the insured also
40 has uninsured motorist bodily injury liability insurance coverage under
41 this section. Following rejection of either or both uninsured motorist
42 coverage or underinsured motorist coverage, unless later requested in
43 writing, the insurer need not offer uninsured motorist coverage or
44 underinsured motorist coverage in or supplemental to a renewal or
45 replacement policy issued to the same insured by the same insurer or
46 a subsidiary or an affiliate of the originally issuing insurer. Renewals
47 of policies issued or delivered in this state which have undergone
48 interim policy endorsement or amendment do not constitute newly
49 issued or delivered policies for which the insurer is required to provide
50 the coverages described in this section.

51 **(c) A rejection under subsection (b) must specify:**

- (1) that the named insured is rejecting:
- (A) the uninsured motorist coverage;
 - (B) the underinsured motorist coverage; or
 - (C) both the uninsured motorist coverage and the underinsured motorist coverage;
- that would otherwise be provided under the policy; and
- (2) the date on which the rejection is effective.

(d) An insurer is not required to make available the coverage described in subsection (a) in a commercial umbrella or excess liability policy, including a commercial umbrella or excess liability policy that is issued or delivered to a motor carrier (as defined in IC 8-2.1-17-10) that is in compliance with the minimum levels of financial responsibility set forth in 49 CFR Part 387.

(e) A rejection under subsection (b) of uninsured motorist coverage or underinsured motorist coverage in an underlying commercial policy of insurance is also a rejection of uninsured motorist coverage or underinsured motorist coverage in a commercial umbrella or excess liability policy.

SECTION 2. [EFFECTIVE JULY 1, 2009] (a) As used in this SECTION, "commercial vehicle policy" means an insurance policy that provides coverage for at least one (1) of the following:

- (1) A motor vehicle that is rated or insured as a business or commercial vehicle.
- (2) A motor vehicle that is licensed by the state as a commercial vehicle.
- (3) A commercial motor vehicle business, including an:
 - (A) individual who; or
 - (B) entity that;
 is in the business or occupation of selling, repairing, servicing, storing, or parking motor vehicles, including a business that is a commercial garage operation, an automobile sales entity, a motor vehicle repair entity, a motor vehicle service station, or a public parking operation.
- (4) A motor vehicle that is used as a public or private livery or a rental conveyance.
- (5) A motor vehicle that is owned or used by a named insured that is not a natural person.

(b) Notwithstanding the effective date of the SECTION of this act amending IC 27-7-5-2, IC 27-7-5-2, as amended by this act, applies to a commercial vehicle policy that is issued or delivered after December 31, 2009.

(c) Notwithstanding the effective date of the SECTION of this act amending IC 27-7-5-2, an insurer shall make available to the policyholder of a commercial vehicle policy that is in effect before and on January 1, 2010, uninsured motorist coverage and underinsured motorist coverage as required by IC 27-7-5-2, as amended by this act, on the date of the first renewal of the commercial vehicle policy that occurs after December 31, 2009.

(d) This SECTION expires December 31, 2015.

SECTION 3. [EFFECTIVE JULY 1, 2009] Notwithstanding the effective date of the SECTION of this act amending IC 27-7-5-2,

1 **IC 27-7-5-2, as amended by this act, applies to a case in which:**
2 **(1) a claim under a policy's uninsured motorist coverage or**
3 **underinsured motorist coverage arises after December 31,**
4 **2009;**
5 **(2) a rejection is made under IC 27-7-5-2, as amended by this**
6 **act, of the uninsured motorist coverage or underinsured**
7 **motorist coverage under which the claim described in**
8 **subdivision (1) is made; and**
9 **(3) the rejection described in subdivision (2) is made after**
10 **December 31, 2009.**
11 SECTION 4. IC 27-7-5-1.5 IS REPEALED [EFFECTIVE
12 JANUARY 1, 2010].
 (Reference is to ESB 142 as reprinted April 1, 2009.)

Conference Committee Report
on
Engrossed Senate Bill 142

Signed by:

Senator Steele
Chairperson

Representative Fry

Senator Lewis

Representative Torr

Senate Conferees

House Conferees